



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Speedy Food Service, Inc.

File: B-259709

Date: January 17, 1995

DECISION

Speedy Food Service, Inc. protests the terms of invitation for bids (IFB) No. F29651-95-B-0002, issued by the Department of the Air Force for food attendant services. Speedy, the incumbent contractor, contends that the agency improperly amended the IFB to release proprietary data concerning its staffing levels.

We dismiss the protest.

The IFB was issued on November 10, 1994, with bid opening set for 2 p.m. on December 13. During a scheduled November 22 site visit, the contracting officer solicited written questions from potential bidders to be answered in a subsequent amendment to the IFB. In response to two of those questions, the IFB was amended on December 2 to indicate the number of employees and managers currently used to perform Speedy's contract. Four bids were opened on December 13 and Speedy's bid was second low. Speedy filed this protest with our Office on December 16, alleging that the December 2 amendment was improper because: (1) it disclosed proprietary data from the firm; and (2) it understated the number of required managers so as to likely cause other bidders to underprice their bids.

These allegations are a challenge to a perceived defect in the IFB which was apparent on the face of the solicitation when it was amended on December 2. Our Bid Protest Regulations require that protests involving such IFB provisions be filed prior to the time set for bid opening. 4 C.F.R. § 21.2(a)(1) (1994). Since Speedy did not file its protest until after that, it is dismissed as untimely.¹ Moreover, to the extent that Speedy is alleging mistakes on

¹Although Speedy argues that it orally objected to the release of the information at the prebid site visit, oral protests to an agency do not operate to toll the timeliness requirements. Clear Air, Inc.--Second Recon., B-242582.4, May 20, 1991, 91-1 CPD ¶ 481.

behalf of other bidders, we do not consider such allegations since it is the responsibility of the contracting parties--the government and the low bidder--to assert rights and resolve mistake questions. Reliable Trash Serv., Inc., B-258208, Dec. 20, 1994, 94--2 CPD ¶ ____.



John Van Schaik
Acting Assistant General Counsel